

**RESOLUTION AMENDING AND REESTABLISHING ADMINISTRATIVE
PROCEDURES FOR GROUNDWATER MANAGEMENT AREA 8**

WHEREAS, the undersigned Groundwater Conservation Districts (Member Districts) are located wholly or partially within the boundaries of Groundwater Management Area 8 (GMA 8); and

WHEREAS, the Member Districts are authorized by Chapter 36, Texas Water Code, to engage in joint planning activities for the coordinated management of the aquifers located in GMA 8 and, in that regard, are required through their Member District Representatives to hold joint planning meetings and to establish “desired future conditions for the relevant aquifers” within GMA 8 (DFCs); and

WHEREAS, the Member Districts desire to fulfill the requirements of Texas Water Code Section 36.108 through mutual cooperation; and

WHEREAS, the Member Districts recognize that GMA 8 includes a geographically and hydrogeologically diverse area with a variety of land uses and a diverse mix of water users ranging from municipal, industrial, and irrigation to domestic and livestock; and

WHEREAS, the Member Districts recognize the importance of coordinating their joint planning activities and sharing the expense of such activities where necessary or appropriate so as to minimize the costs of such activities to the citizens of Texas; and

WHEREAS, Texas Water Code Section 36.108 requires the Member District Representatives to hold joint planning meetings for the consideration of DFC options, the proposal of DFCs for adoption, and, after the contemplation of comments and suggested revisions provided by the public and Member Districts, the adoption of DFCs for each relevant aquifer in GMA 8 and the submission of an explanatory report to the Texas Water Development Board for approval of the DFCs adopted by GMA 8; and

WHEREAS, Texas Water Code Section 36.108(d-3) provides that the explanatory report must include the following: (1) identification of each DFC; (2) the policy and technical justification for each DFC; (3) documentation that the Member Districts considered the nine statutory factors listed in Texas Water Code Section 36.108(d)(1)-(9), and how the DFC adopted impacts each factor; (4) a list of the other DFC options considered, if any, and the reasons why those options were not adopted; and (5) the reasons why recommendations made by advisory committees and relevant public comments received by the districts were or were not incorporated into the DFCs; and

WHEREAS, the DFC explanatory report serves as the administrative record in the DFC adoption process, and for this reason, the Member Districts recognize the importance of establishing a procedural record from the beginning of the DFC consideration, proposal, and adoption process that contemplates each of the items to be addressed and included in the explanatory report under Section 36.108(d-3), Water Code; and

WHEREAS, Texas Water Code Section 36.108 provides a clear procedural process for DFCs that have been approved by a two-thirds vote by the Member District Representatives as the proposed DFC for distribution to the Member Districts for public hearings and subject to a public comment period, but the statute is less clear as to the procedure applicable to the consideration of one or more DFC options, DFC options that may be discussed, evaluated, or considered but not adopted, the extent to which those DFC options must be addressed in the explanatory report, and the consideration of the nine statutory factors prior to the Member District Representatives' vote to approve the DFC option as the proposed DFC; and

WHEREAS, the Member Districts adopted the Resolution Establishing Administrative Procedures for GMA 8 on November 16, 2011 (Resolution); and

WHEREAS, the Member Districts have determined that the Resolution shall be amended to incorporate an administrative procedural process that is consistent with Chapter 36, including the procedural requirements currently in place under Texas Water Code Section 36.108, for the consideration, proposal, and adoption of DFCs to ensure the development of a clear administrative record that not only supports the DFCs ultimately adopted by GMA 8, but also addresses any DFCs considered but not adopted in a manner that is sufficient for inclusion in the explanatory report as required by Texas Water Code Section 36.108(d-3);

NOW, THEREFORE, it is agreed and understood among the Member Districts as follows:

SECTION ONE
INTENT AND PURPOSES

1.01 It is the intent and purpose of the Member Districts to carry out and fulfill the joint planning activities and requirements of Chapter 36, Texas Water Code, including coordinating with one another regarding the sharing of information, posting of notices of public meetings, sharing expenses to reduce costs to Texas citizens where necessary or appropriate, undertaking joint studies or research where necessary or appropriate, and establishing "desired future conditions for the relevant aquifers" within GMA 8.

1.02 In establishing DFCs for the relevant aquifers, it is the intent and purpose of the Member Districts to adopt administrative procedures for the consideration, proposal, and adoption of DFCs that promote the consideration of various DFC options, as necessary or appropriate, to be included in the explanatory report, while preventing the lack of procedural guidance provided in Chapter 36 from hindering the development of a defensible administrative record or explanatory report. The Member Districts do not intend for the administrative procedures herein to operate as a disincentive to consider various DFC options, but rather intend to promote the ability of the Member Districts to openly identify, evaluate, and discuss multiple ideas, proposals, technical information, and policy options regarding the establishment of DFCs while simultaneously establishing procedures to identify when a particular discussion or evaluation rises to the level of being formally considered for inclusion in the DFC explanatory report.

SECTION TWO
PARTICIPATION IN GROUNDWATER MANAGEMENT PLANNING

2.01 Each Member District shall be subject to these administrative procedures.

2.02 A Member District's Board President or the President's designee shall be the Member District Representative for GMA 8 planning activities. In the event that the Board President chooses to appoint a designee as the representative or alternate representative of the Member District, evidence of the appointment shall be required to the GMA 8 Administrator either by letter or by copy of the minutes of the meeting at which the President made the appointment. If GMA 8 has been notified that the designee shall serve as an alternate to the President, no further notice to GMA 8 is needed for the alternate to represent the Member District at a GMA 8 meeting. At any time a Member District changes Presidents or designees, the Member District shall notify the GMA 8 Administrator in writing within 60 days of the change.

2.03 Only a Member District Representative or alternate representative appointed pursuant to Section 2.02 may vote or take action on GMA 8 activities. For any action, only one representative from each Member District may vote. However, each Member District Representative shall obtain approval from his respective District board of directors for the following decisions:

- a. Any commitment of District funds for GMA 8 joint planning activities.
- b. Decisions related to the establishment of DFCs in instances where such decisions are required by Chapter 36 to be made by the boards of directors of the districts rather than by the Member District Representatives.

2.04 Each Member District of GMA 8 shall endeavor to participate and contribute in good faith in joint planning activities and to satisfy the joint planning requirements of Chapter 36, Water Code. In adopting an annual budget or establishing an equitable method for the Member Districts to fund their coordinated joint planning activities within the annual budget or special costs that arise outside of the annual budget, the Member Districts shall strive to ensure that all districts who benefit from the activities or expenses contribute to the financing of those activities or expenses while recognizing that Member Districts have widely disparate means and abilities to participate in such financing. At times, all Member Districts will benefit from such expenses and activities, while at other times it will become apparent that certain expenses are caused by, or accrue to the benefit of, only one Member District or a smaller number of Member Districts. The Member Districts will attempt to take such circumstances under consideration when determining whether an item should be funded by the Member Districts as a group as part of joint planning activities or rather to be funded by one or more districts on their own accord, as well as in establishment of equitable financing methods. Such budgeting and equitable financing method decisions shall be established by a two-thirds majority vote as set forth under Section 3.04. Once decided by a two-thirds vote, actual commitments of funds from each Member District must nonetheless be obtained by approval from their respective District boards of directors as set forth

under Section 2.03. Once approved by its respective District board of directors, each Member District has a continuing duty to honor its financial commitment to the other Member Districts.

2.05 The GMA 8 Member Districts, as a group to engage in joint planning activities, shall have only the power granted by Chapter 36, Water Code, that relates to joint planning activities.

2.06 The GMA 8 Member Districts shall provide support by resolution of the Member Districts, motion of support reflected in the joint meeting minutes, or other appropriate means for the activities of each other in pursuing independent or joint studies or research for the betterment of information related to the water resources located wholly or partially within GMA 8, conservation or educational studies, and similar undertakings when such support is needed for one or more Member Districts in pursuing grants, loans, or other financial or technical assistance from state or federal agencies, other local governments, or private institutions.

SECTION THREE

OPEN GOVERNMENT; MEETINGS; DECISION MAKING

3.01 GMA 8 joint planning meetings must be held in accordance with the Texas Open Meetings Act, Chapter 551, Government Code. The Member Districts agree that notice of meetings shall be provided in accordance with the requirements of Chapter 36, Texas Water Code. Section 36.108(e) authorizes the Member Districts to elect one Member District to be responsible for providing the notice of joint meetings that would otherwise be required of each of them. By adopting these administrative procedures, the Member Districts elect the Administrator described under Section 4 to serve as the district authorized to provide notice of joint meetings under Section 36.108(e), Water Code. All Member Districts shall cooperate with the Administrator to help ensure that meeting notices are properly and timely posted within the boundaries of their individual districts, including posting a meeting notice at the district office upon request by the Administrator as contemplated under Section 36.108(e)(3), Water Code.

3.02 Each Member District shall comply with the Texas Public Information Act, Chapter 552, Government Code, with regard to joint planning activities. However, the Administrator described under Section 4 shall serve as the primary governmental entity to which requestors of public information related to joint planning activities are generally referred by the Member Districts, as set forth under Section 4.04.

3.03 A simple majority of the total number of GMA 8 Member Districts present through their Member District Representatives or alternative representatives shall constitute a quorum of the Member District Representatives sufficient to engage in GMA 8 joint planning activities as contemplated under Chapter 36, Water Code. A quorum shall be necessary to conduct business on behalf of the GMA 8 Member Districts. A majority of the total number of Member Districts shall be necessary for a motion to prevail at a joint planning meeting, rather than a simple majority of the number of Member Districts actually present at a meeting, except as set forth in Section 3.04 for decisions that require a two-thirds majority. Meetings of a committee of Member District Representatives to discuss joint planning activities where less than a quorum of the total number

of GMA 8 Member Districts is present through their Member District Representatives or alternative representatives is not subject to Chapter 551, Government Code.

3.04 A two-thirds majority of the total number of Member Districts, voting through their Member District Representatives, shall be necessary for a motion to prevail at a joint planning meeting to approve any of the following items:

- a. in accordance with the procedural process set forth under Section 5 herein, approval of: (1) the formal consideration of DFCs; (2) the further review of DFCs under the nine statutory factors listed in Texas Water Code Section 36.108(d); (3) the proposal of DFCs for adoption; and (4) adoption of DFCs as contemplated under Section 36.108(d),(d-2), or (d-3), Water Code;
- b. adoption of an annual budget, establishment of a fiscal year, or establishment of an equitable method for the Member Districts to fund their coordinated joint planning activities within the annual budget or special costs that arise outside of the annual budget; and
- c. approval or amendment of these administrative procedures.

An item presented at a joint planning meeting by motion for approval as required by this section formally expires and may no longer be presented by motion for approval at any joint planning meeting if the same item has previously been presented at one or more joint planning meeting(s) by motion for approval three (3) times, where each of the three (3) previous motions fail to receive a two-thirds majority vote of the total number of Member Districts for approval. This requirement applies only to the same motion presented during the same joint planning cycle.

SECTION FOUR **ADMINISTRATION**

4.01 The Member Districts of GMA 8 shall select one Member District to serve as an Administrator for GMA 8 joint planning activities to perform such administrative duties as set forth herein or as otherwise requested by the Member Districts and agreed to by the Administrator. The Administrator may collect funds necessary, reasonable and available from the Member Districts by appropriations made and approved by the Member Districts for GMA 8 joint planning activities and serve as a contracting and administrative agency for such purposes. The Administrator may account for its labor and direct expenses associated with administering GMA 8 business. The Administrator shall provide the Member Districts with periodic accounting reports of its administrative costs and expenses for purposes of seeking reimbursement or for explaining expenditures made from funds previously collected from the Member Districts for joint planning activities.

4.02 The Administrator may, as authorized by the Member Districts, contract for technical or legal services as necessary to fulfill the requirements of Chapter 36 and implement these administrative procedures. If the Administrator is contracting for technical or legal services

on behalf of the Member Districts, the Member Districts shall, by agreement, determine how the services will be acquired and an equitable structure for the funding necessary for payment of the services.

4.03 The Administrator shall provide notice of joint planning meetings under Section 36.108(e), Water Code, on behalf of the Member Districts and shall request assistance from the Member Districts as the Administrator deems necessary or appropriate in providing or posting such notice. The Administrator shall include agenda items for inclusion in meeting notices at the direction of the Chair or as requested by a majority of the Member Districts in writing or by a majority vote under "New Business" at a prior joint meeting.

4.04 The Administrator shall serve as the primary governmental entity to which requestors of public information related to joint planning activities are generally referred by the Member Districts for information of a nature that can be best described as relating to joint planning activities rather than the activities of individual districts. Such joint planning information may include notices, meeting minutes, reports, and similar supporting information for joint planning meetings or DFC development that are provided or kept by the Administrator.

4.05 The Member Districts shall elect a Chair and Vice-Chair, annually. An individual must be a Member District Representative to serve as an officer. Each officer shall be a Representative of a different Member District. The Chair shall preside at GMA 8 joint planning meetings. The Vice-Chair shall fulfill the duties of the Chair in the absence of the Chair.

SECTION FIVE

PROCEDURE FOR THE CONSIDERATION, PROPOSAL, AND ADOPTION OF DFCs

5.01 For a DFC option to be formally considered as a potential candidate for proposal and adoption by the Member Districts to be included in the explanatory report as a DFC that was adopted or considered, but not adopted, pursuant to Texas Water Code Section 36.108(d-3), the DFC option must be requested in writing and approved by the Member District Representatives for formal consideration at a GMA 8 joint planning meeting.

5.02 A Member District Representative shall request a DFC option to be approved for formal consideration by submitting, no less than 14 days before a GMA 8 joint planning meeting, a written request to the Contracted Consultant, as defined in Section 6, and to each Member District describing with sufficient specificity the DFC option requested to be approved for formal consideration. The sufficiency of the written request shall be reviewed by the Contracted Consultant and, no later than 7 days before the GMA 8 joint planning meeting, the requesting party shall be notified by the Contracted Consultant of any possible deficiencies in the written request in preparation for discussion of the request at the GMA 8 joint planning meeting.

5.03 Based on the information provided in the written request, including any supplemental information provided in writing and accepted by the Member District Representatives at or before the GMA 8 joint planning meeting, the Member District

Representatives shall vote to determine whether the requested DFC option shall be formally considered. To be formally considered, the requested DFC option must be approved by a two-thirds vote of the total Member District Representatives. If, through discussions at the GMA 8 joint planning meeting, the DFC option originally requested in writing is verbally amended at the meeting, the DFC option, as amended, may nonetheless be approved for formal consideration by a two-thirds vote of the total District Members without the submission of an additional written request reflecting such an amendment. A DFC option approved for formal consideration under this section shall be included in the explanatory report pursuant to Texas Water Code Section 36.108(d-3).

5.04 Of the DFC options formally considered, at least one of the DFC options shall be approved by two-thirds vote of the total Member District Representatives to be further reviewed under the nine statutory factors listed in Section 36.108(d)(1)-(9), Water Code. For a DFC option approved for further review, the Member District Representatives shall discuss and consider the nine statutory factors and how the DFC option impacts each of the nine factors at a joint planning meeting. A written report shall be prepared to document the consideration of the nine statutory factors and the discussions relevant to the DFC option's impact to each factor, to the extent necessary for purposes of inclusion in the explanatory report as required by Section 36.108(d-3)(3), Water Code.

5.05 Only after consideration of the nine statutory factors as set forth in Section 5.04 may a DFC option become eligible for approval as the proposed DFC. For each relevant aquifer in GMA 8, the Member District Representatives shall approve by two-thirds vote of the total Member District Representatives one DFC option to serve as the proposed DFC as required by Sections 36.108(d) and (d-2), Water Code. The proposed DFC must provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in GMA 8.

5.06 The proposed DFC approved by two-thirds vote of the total Member District Representatives shall be distributed to the Member Districts. A period of not less than 90 days for public comment begins on the day the proposed DFC is mailed to the Member Districts.

5.07 During the public comment period and after posting proper notice as required by Texas Water Code Section 36.063 each Member District shall hold a public hearing on the proposed DFCs relevant to that Member District pursuant to the requirements set forth in Section 36.108(d-2), Water Code. After the public hearing, each Member District shall compile for consideration at the next joint planning meeting a summary report of relevant comments received and any suggested revisions to the proposed DFC and the basis for the revisions.

5.08 Pursuant to Texas Water Code Section 36.108(d-3), after the earlier of the date on which all the Member Districts have submitted their district summaries or the expiration of the public comment period, the Member District Representatives shall reconvene to review the reports, consider any Member District's suggested revisions to the proposed DFCs, and vote to adopt the DFCs. The DFCs must be adopted as a resolution by a two-thirds vote of all the Member District Representatives.

5.09 A record shall be prepared to address each relevant comment received during the public comment period or at the public hearing and any suggested revisions included in the Member Districts' summary reports submitted to and considered by the Member District Representatives at the joint planning meeting, as well as any recommendations made by advisory committees. The record shall identify those comments and revisions incorporated into the DFC, as well as those comments and revisions not incorporated, and provide the reasoning behind the decision to incorporate or not to incorporate the comments or revisions, and this record shall be included in the explanatory report as required by Texas Water Code Section 36.108(d-3)(5).

5.10 Upon adoption of the DFCs, the Member District Representatives shall prepare an explanatory report as required by Texas Water Code Section 36.108(d-3). Consistent with the statutory requirements and the procedural requirements adopted by this resolution, the explanatory report shall:

- a. identify each DFC adopted pursuant to Section 5.08;
- b. provide the policy and technical justifications for each DFC adopted;
- c. include the written reports required by Section 5.04, relevant to the DFCs adopted, that document the discussions of the Member District Representatives in consideration of the nine factors listed in Texas Water Code 36.108(d)(1)-(9) and how the adopted DFCs impact each factor, inclusive of any amendments or supplemental information deemed necessary and taken into consideration for the adopted DFCs after the vote to approve the proposed DFCs under Section 5.05;
- d. list the other DFC options approved for formal consideration under Section 5.03, but not adopted, and the reasons why those options were not adopted, based on each DFC option approved for formal consideration under Section 5.03 or further review under Section 5.04;
- e. discuss reasons why recommendations made by advisory committees, if any, and relevant public comments received by the Member Districts were or were not incorporated into the DFCs by inclusion of the record prepared pursuant to Section 5.09; and
- f. describe how the DFCs provide a balance between the highest practicable level of groundwater production and the conservation, preservation, recharging, and prevention of waste of groundwater and control of subsidence in GMA 8.

5.11 The Member District Representatives shall submit to the Texas Water Development Board and each Member District proof that notice was posted for the joint planning meeting to adopt the DFCs, a copy of the resolution adopting the DFCs, and a copy of the explanatory report.

5.12 As soon as possible after the Member District receives the DFCs resolution and explanatory report, the Member District shall adopt the DFCs in the resolution and explanatory report that apply to the Member District.

SECTION SIX
DEFINITIONS

These terms shall have the following meaning when used herein:

Contracted Consultant: The consultant retained pursuant to Section 4.02 to assist in conducting joint planning activities, developing DFCs for the relevant aquifers in GMA 8, and preparing the explanatory report as required by Section 36.108(d-3) of the Texas Water Code.

Desired Future Condition or DFC: The desired future conditions for the relevant aquifers within GMA 8 established in accordance with Chapter 36, Texas Water Code.

GMA 8: Groundwater Management Area 8 as designated by the Texas Water Development Board and as may be amended from time to time.

Member District: A groundwater conservation district subject to Texas Water Code Chapter 36 that is located in whole or in part inside GMA 8. If the creation of a particular district requires confirmation through an election, the district shall not be a Member District until it is confirmed. The groundwater conservation districts located within GMA 8 as of the date of this Resolution include the Central Texas Groundwater Conservation District, Clearwater Underground Water Conservation District, Middle Trinity Groundwater Conservation District, North Texas Groundwater Conservation District, Northern Trinity Groundwater Conservation District, Post Oak Savannah Groundwater Conservation District, Prairielands Groundwater Conservation District, Red River Groundwater Conservation District, Saratoga Underground Water Conservation District, Southern Trinity Groundwater Conservation District, and Upper Trinity Groundwater Conservation District.

Member District Representative: The President of the Board of Directors of a Member District or his designee, if authorized as set forth under Section 2.02.

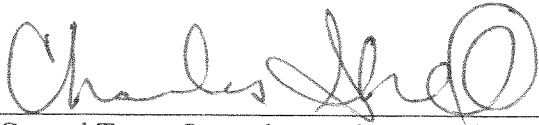
NOW, THEREFORE, BE IT RESOLVED BY THE MEMBER DISTRICTS OF GROUNDWATER MANAGEMENT AREA 8:

- 1) Each of the affirmations and recitals set forth herein are true and correct;
- 2) The authorized voting representatives of the GMA 8 Member Districts have approved by a two-thirds vote of the total number of Member Districts in GMA 8 the administrative procedures set forth herein; and
- 3) Any previous administrative procedure agreed to by the Member Districts that is in conflict with the administrative procedures set forth herein is superseded by the administrative procedures set forth in this resolution for future actions of the Member Districts.

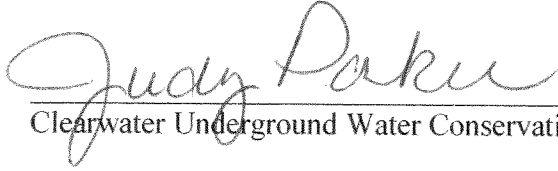
AND IT IS SO ORDERED.

PASSED AND ADOPTED on this 29th day of July, 2014.

ATTEST:

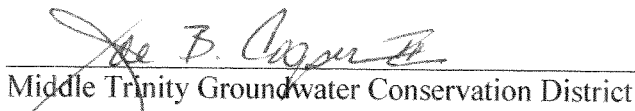


Central Texas Groundwater Conservation District

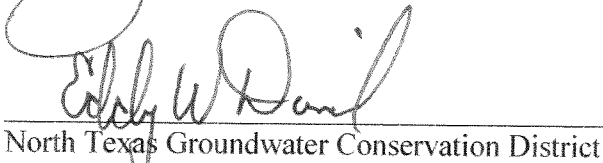


Clearwater Underground Water Conservation District

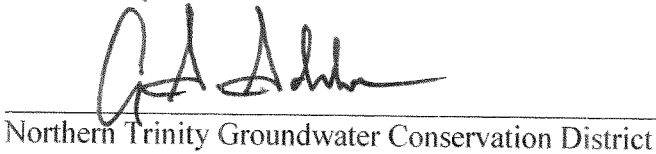
Fox Crossing Water District



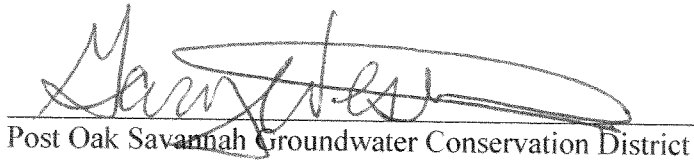
Middle Trinity Groundwater Conservation District



North Texas Groundwater Conservation District



Northern Trinity Groundwater Conservation District



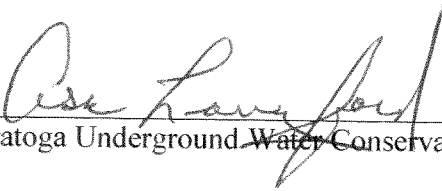
Post Oak Savannah Groundwater Conservation District




Prairielands Groundwater Conservation District



Red River Groundwater Conservation District


Saratoga Underground Water Conservation District

Southern Trinity Groundwater Conservation District


Upper Trinity Groundwater Conservation District